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Attorneys for Defendants Patrick Allen, Sajel Hathi, Dolores Matteucci, and Sara Walker

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF OREGON
 PORTLAND DIVISION

DISABILITY RIGHTS OREGON,
 METROPOLITAN PUBLIC DEFENDER
 SERVICES, INC., and A.J. MADISON,

Plaintiffs,

v.

SEJAL HATHI, in her official capacity as head of the Oregon Health Authority, and SARA WALKER in her official capacity as Interim Superintendent of the Oregon State Hospital,

Defendants.

JAROD BOWMAN, JOSHAWN DOUGLAS-SIMPSON,

Plaintiffs,

v.

SARA WALKER, Interim Superintendent of the Oregon State Hospital, in her official

Case No. 3:02-cv-00339-AN (Lead Case)
 Case No. 3:21-cv-01637-AN (Member Case)
 Case No. 6:22-CV-01460-AN (Member Case)

DEFENDANTS' REBUTTAL TO AMICI HOSPITALS' ARGUMENT REGARDING REMEDIES

Case No. 3:21-cv-01637-AN (Member Case)

capacity, DOLORES MATTEUCCI, in her individual capacity, SEJAL HATHI, Director of the Oregon Health Authority, in her official capacity, and PATRICK ALLEN in his individual capacity,

Defendants.

LEGACY EMANUEL HOSPITAL & HEALTH CENTER d/b/a UNITY CENTER FOR BEHAVIORAL HEALTH; LEGACY HEALTH SYSTEM; PEACEHEALTH; and PROVIDENCE HEALTH & SERVICES OREGON,

Plaintiffs,

v.

SEJAL HATHI, in her official capacity as Director of Oregon Health Authority,

Defendant.

Case No. 6:22-CV-01460-AN (Member Case)

Defendants submit the following rebuttal to the argument made by counsel for amici Legacy Emanuel Hospital and Health Center, Legacy Health Systems, PeaceHealth, Providence Health and Services – Oregon, and St. Charles Health System, Inc. (Amici Hospitals) at the close of the hearing regarding Plaintiffs' motions for contempt and a remedial order, on March 13, 2025.

REBUTTAL

As part of their closing presentation, Amici Hospitals included two of the 14 slides used during testimony given by Defendants' witnesses and have since submitted those two slides along with slides created by Amici Hospitals to the Court as an exhibit (ECF No. 588). Amici Hospitals represented that one of Defendants' slides, titled "Forensic Community Capacity Expansion Projects Now Underway," indicates that Defendants are currently adding only five new beds to serve the forensic populations in 2025. However, in using the titled "Forensic Community Capacity Expansion Projects Now Underway," Amici Hospitals omitted Defendants' slide that directly preceded it, titled "Capacity Building in the

Community.”¹

Amici Hospitals also ignored the accompanying testimony that Ms. Clarke gave regarding these slides. Regarding the slide Amici Hospitals presented out of context in their closing presentation, Ms. Clarke testified that it represents only a sub-set of the 204 beds depicted in Defendants’ preceding “Capacity Building in the Community” slide. Funded by a pre-existing one-time legislative appropriation, this sub-set of new beds is targeted to meet needs identified by the counties in their responses to Requests for Information that the Oregon Health Authority sent in the Fall of 2024. She further testified that the slide Amici Hospitals did not use depicts the creation of 204 *new* beds between January 2025 and June 2027 to serve aid and assist and GEI patients in a prioritized manner, with 77 of those beds projected to be created by the end of 2025.

DATED March 18, 2025.

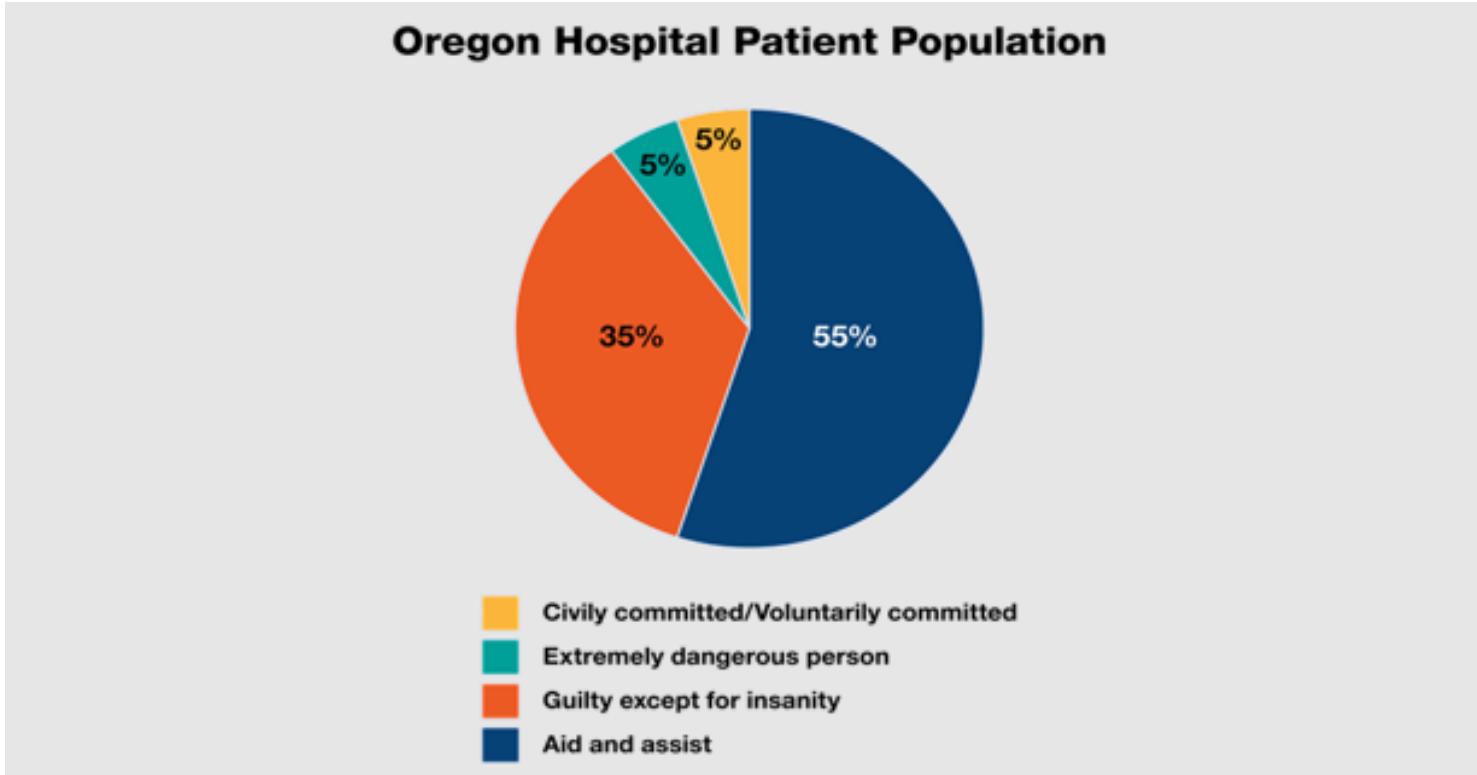
Respectfully submitted,

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Of Attorneys for Defendants

¹ Defendants’ full slides are attached to this filing as Attachment 1; the Capacity Building in the Community slide is slide number 8.

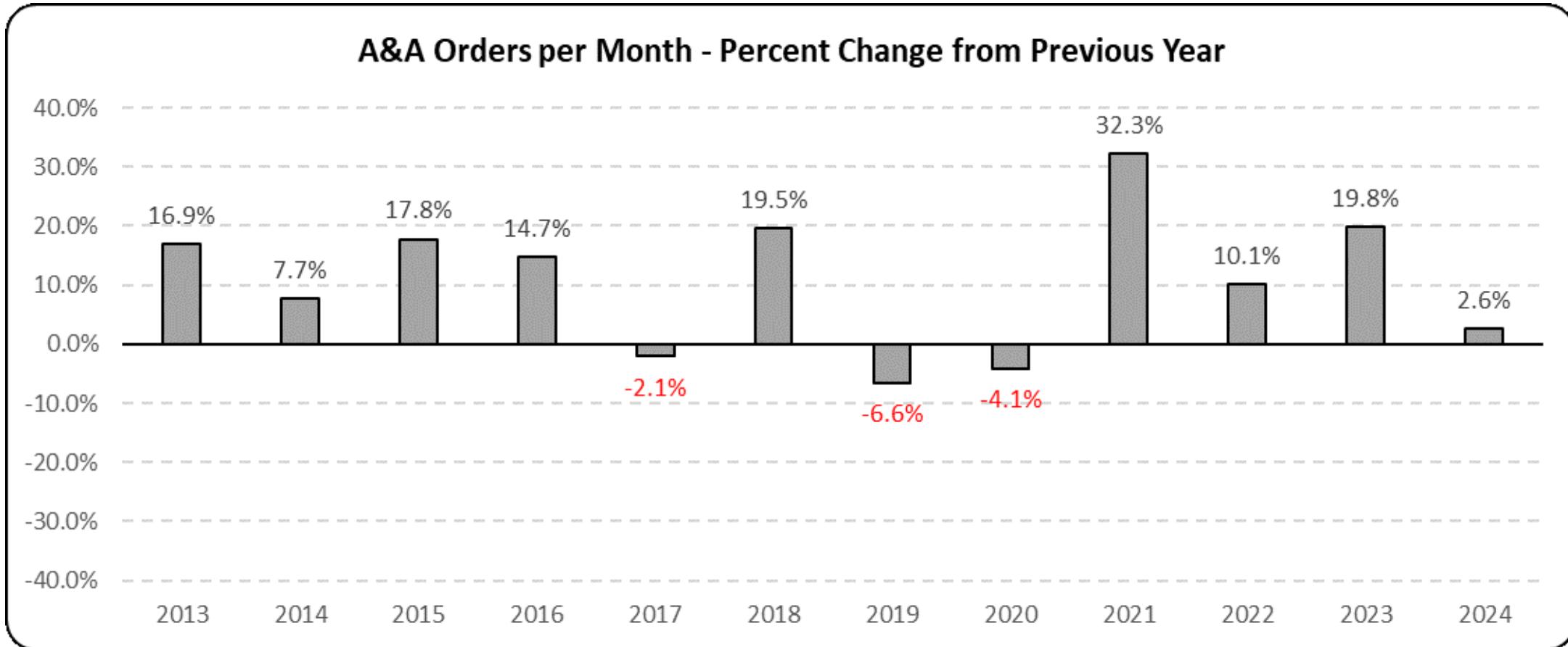
Oregon State Hospital Patient Population



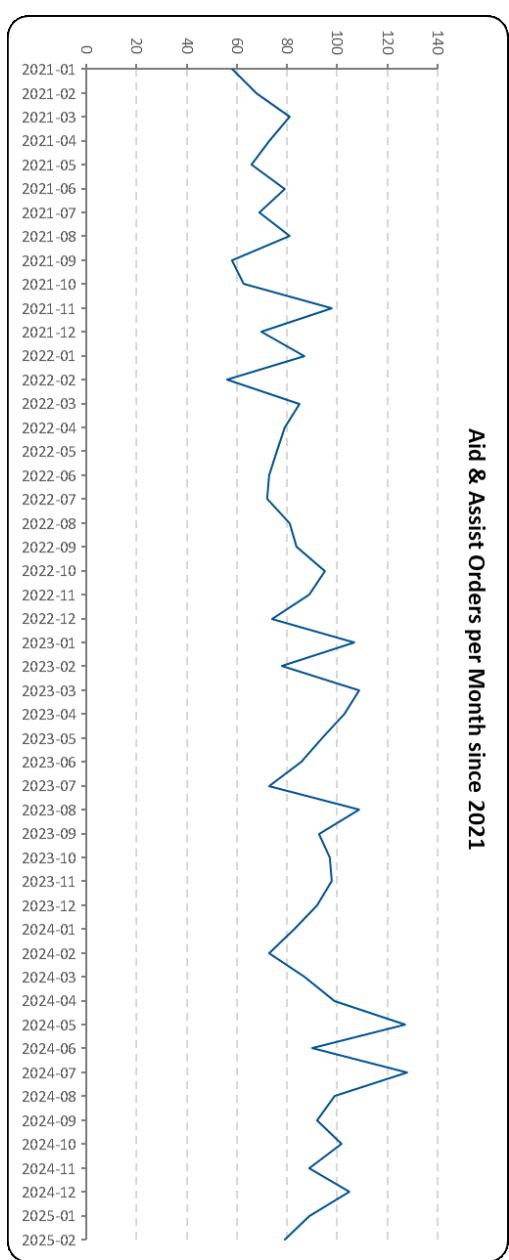
A&A Orders and Percent Change Since 2013

Year	Orders per Month	Percent Change
2012	30.5	
2013	35.7	16.9%
2014	38.4	7.7%
2015	45.3	17.8%
2016	51.9	14.7%
2017	50.8	-2.1%
2018	60.8	19.5%
2019	56.8	-6.6%
2020	54.4	-4.1%
2021	72.0	32.3%
2022	79.3	10.1%
2023	94.9	19.8%
2024	97.4	2.6%

A&A Orders and Percent Change Since 2013



A&A Orders Since 2021



Placement/Housing Array in the Community



**Secured Residential
Treatment Facility
(SRTF)**



**Residential Treatment
Facility (RTF) / Residential
Treatment Homes (RTH)**



**Adult Foster Home
(ADH)**



Other

Funding Sources for Forensic Populations

There are various funding sources for placements serving the GEI and A&A populations:

- Funding to counties through the CFAAs
- Funding to the counties through grants
- Funding to nonprofits through grants
- Private insurance
- Medicaid
 - Adult Foster Homes (AFH), Residential Treatment Homes (RTH), and Residential Treatment Facilities (RTF) are mostly Medicaid 1915i waiver funded
 - SRTFs are funded by standard Medicaid (SPA) funds or by general funds if the individual does not meet medical necessity. There are some who are paid through specific Service Element funds, some via CCO funding, and some via direct contracts.
- Direct contracts between OHA and providers
- Flexible housing funds

Placement/Housing Array in the Community



Secure Residential Treatment Facilities:

- Class 1 & Class 2 : 24-hour services, treatment, and assistance with activities of daily living for one to 16 adults with mental health disorders in a setting that restricts an individual's exit from the setting due to civil commitment, court order, diversion or legal hold as the individual has been determined to be a danger to themselves or others.
- Only Class 1: Allows for use of seclusion, physical restraint, and involuntary medications.



Residential Treatment Facilities: 24-hour services, treatment or treatment coordination, and assistance with activities of daily living for six to 16 adults with mental health disorders in a community-based setting.



Residential Treatment Homes: 24-hour services, treatment or treatment coordination, and assistance with activities of daily living for up to five adults with mental health disorders in a community-based setting.



Adult Foster Homes: 24-hour services and assistance with activities of daily living to five or fewer adults diagnosed with a mental illness.



Other: stepped down transitional residential housing (e.g., NWRCC); permanent public congregate housing for adults with chronic behavioral health disorders; permanent private housing for adults and families with behavioral health disorders; halfway houses (temporary short or long-term public or private congregate dwelling for adults with addiction disorders); peer respite centers (short-term residential congregate facility for adults with behavioral health disorders); recovery homes and sober living homes (temporary short or long-term public or private congregate dwelling serving those with addiction disorders); hotels; and shelters.

Capacity Building in the Community

- These are OHA's projects for behavioral health residential treatment and housing funded from FY21 to date for the Aid & Assist, GEI, and Civil Commitment populations.
- Projections show creation of **204 new beds** between January of 2025 to June of 2027.
- Definitions
 - Bed: Sleeping space within all other housing/facility types, may be a shared space/room with others.
 - Unit: Personal living in a single family dwelling environment associated with supported housing and recovery housing that may have more than one resident.

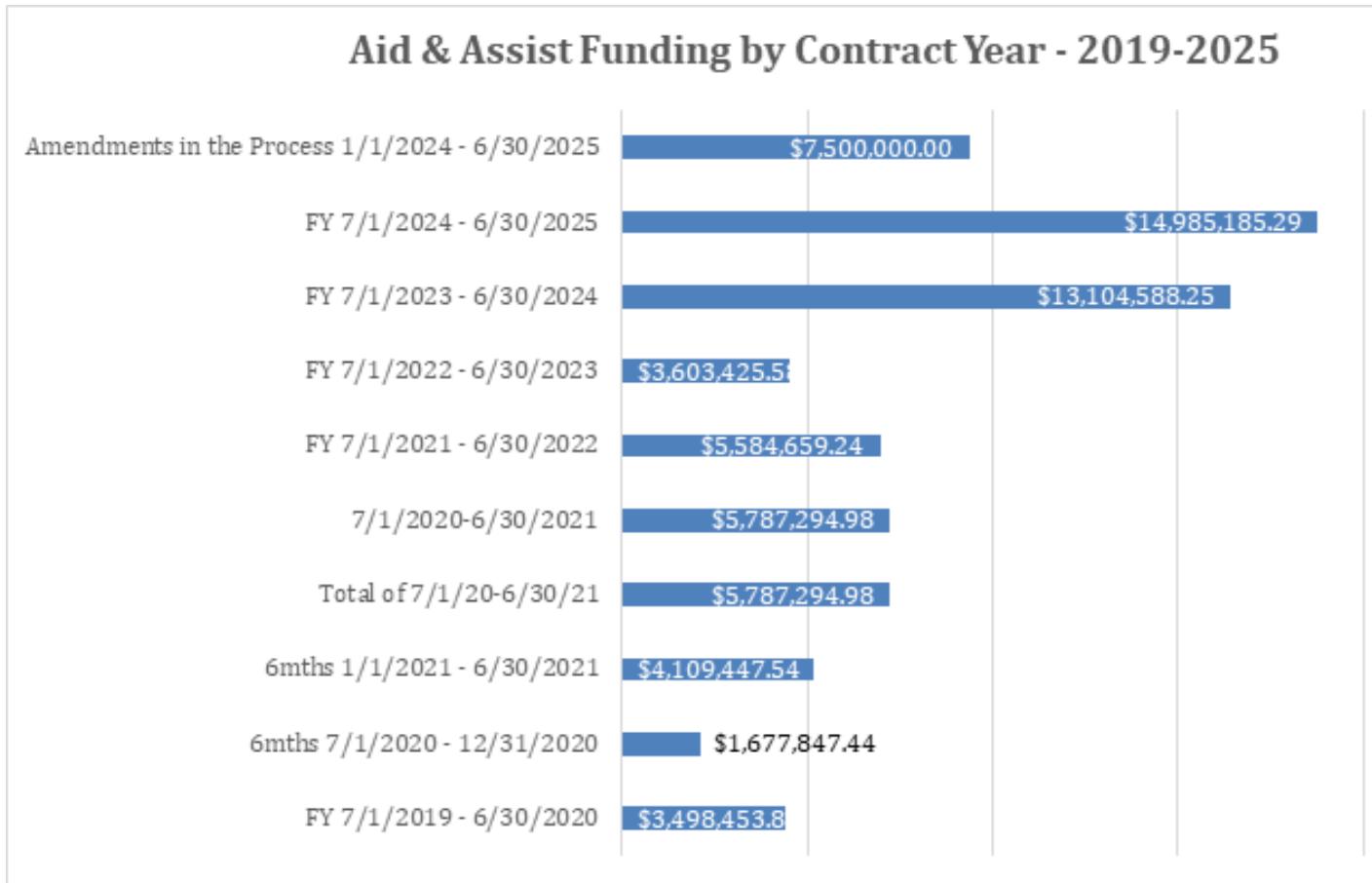
Timeframe Include	Quarter	Added Capacity (Beds)	Added Capacity (Units)
Jan - Mar 2023	Quarter 1 2023	12	
Apr - Jun 2023	Quarter 2 2023	8	
July - Sept 2023	Quarter 3 2023		
Oct - Dec 2023	Quarter 4 2023		
Jan - Mar 2024	Quarter 1 2024		
Apr - June 2024	Quarter 2 2024	16	
July - Sept 2024	Quarter 3 2024	33	
Oct - Dec 2024	Quarter 4 2024	15	
Jan - Mar 2025	Quarter 1 2025	16	
Apr - Jun 2025	Quarter 2 2025	15	
July - Sept 2025	Quarter 3 2025	26	5
Oct - Dec 2025	Quarter 4 2025	10	5
Jan - Mar 2026	Quarter 1 2026		
Apr - Jun 2026	Quarter 2 2026		
July - Sept 2026	Quarter 3 2026	41	
Oct - Dec 2026	Quarter 4 2026	16	
Jan - Mar 2027	Quarter 1 2027		
Apr - June 2027	Quarter 2 2027	16	
TBD	TBD	61	
	Total	285 Beds	10 Units

Forensic Community Capacity Expansion Projects Now Underway

OHA is spending **\$9.4** million to create more placements for the A&A and GEI populations:

- **Northwest Regional Re-Entry Center (NWRRC)**: \$4 million to add approximately 20 beds by 8/30/2026.
- **Jackson House (SRTF)**: \$749,900 to add 16 beds by 8/30/26.
- **Lifeworks NW (Kendall House) (SRTF)**: \$300,000 to add 5 beds by 6/30/25.
- **Lifeworks NW (Fredrick House) (SRTF)**: \$1.2 million to add 5 beds by 8/30/26.
- **Cascadia (Nadine's Place) (SRTF)**: \$181,283 to update existing facility to prevent loss of beds and provide an ADA accessible bed.
- **Cascadia (23rd Ave House) (SRTF)**: \$578,210 to update existing facility to prevent loss of beds and provide an ADA accessible bed.
- **Cameron Care/Jackson House North Portland (SRTF)**: \$3 million to add 16 beds (new construction for this build will take a minimum of 2 years).

Aid and Assist Funding from 2019 to 2025



Aid & Assist Community Spend Plan: 2021-23

The below charts detail the funds sent to the CMHPs for the A&A population in the community through the CFAA and direct contracts for community restoration services:

2021-23 Spend Plan for All Funds	Obligated	In Contract?	Spent as of 9.12.22
Community Residential Placements (includes*E board contracts) Northwest Regional Recovery Center (NWRRCC), Coos, Lane, Multnomah	\$8,931,292	Yes, contractors bill quarterly, working well	Paid through Q1 and Q2 state fiscal year
One-time increase to CMHPs	\$2,250,000	Yes, sent out via CFAA	\$2,250,000
Funding to CMHPs via CFAAs	\$6,901,735	Yes, via CFAA	\$6,901,735
Funding to counties per their request for assistance	\$15,918,286	Yes, all in contract waiting on CMHP signature	Invoicing started Oct.1 2022 (Q2)
Total	\$34,001,313		\$34,001,313

Aid & Assist Community Spend Plan: 2023-24

2023-24 Spend Plan for All Funds	Obligated	In Contract?	Spent?
Community Restoration Services Northwest Regional Recovery Center (NWRRC), Coos, Lane, Multnomah, Washington	\$14,119,946	Yes, via direct contracts	Funds are paid on a monthly basis
Community Navigator Pilot Program (five county sites)	\$6,000,000	Yes, sent out via CFAA	Funds are paid on a monthly basis
One-time increase to CMHPs	\$7,500,000	Yes, sent out via CFAA	Yes
CMHPS funds to support community restoration services	\$12,593,472	Yes, sent out via CFAA	Funds are paid on a monthly basis
Total	\$40,213,418		

GEI Community Spending from 2021-2025

2023-25 PSRB Spend Plan	Obligated	In Contract?	Spent?
CFAA for Monitoring, Security and Supervision Services for PSRB and JPSRB	\$10,343,304	Yes, via CFAA and direct contracts	Funds are paid on a monthly basis

2021-23 PSRB Spend Plan	Obligated	In Contract?	Spent?
CFAA for Monitoring, Security and Supervision Services for PSRB and JPSRB	\$9,926,395	Yes, via CFAA and direct contracts	Yes

Increasing Accountability in the New CFAA

- Creating clear expectations for service delivery and service outcomes for each CMHP Core Service Area with frequent monitoring by OHA to ensure compliance and accountability.
- Requiring development and submission of Local Plans and budgets for approval by OHA with OHA intervention as needed to address misalignment with CFAA priorities.
- Local Plans and budgets are expected to describe and demonstrate prioritization of services and supports for: Aid & Assist, Civil Commitment, PSRB/JPSRB, Forensic Diversion, and Crisis Services.
- Requiring quarterly implementation and expenditure reporting documenting adherence to the Local Plan and budget approved by OHA.
- Streamlining data reporting requirements to reduce administrative burden for CMHPs and OHA and support timely submission of critical data to identify and mitigate challenges to meeting outcomes through corrective action plans and other accountability measures.